THE HON'BLE SRI JUSTICE A.GOPAL REDDY

AND

THE HON'BLE SRI JUSTICE P.SWAROOP REDDY

WRIT PETITION No.25656 of 2005

DATE: 30.11.2007

Between:

Syed Osman Pasha

…Petitioner

and

The Secretary to Government,
Andhra Pradesh, Union of India,
Medical and Health Department,
New Delhi and others

…Respondents

THE HON'BLE SRI JUSTICE A.GOPAL REDDY
AND
THE HON'BLE SRI JUSTICE P.SWAROOP REDDY

WRIT PETITION No.25656 of 2005

ORDER: (per AGR, J)

Letter, dated 23.11.2005, enclosing 5 paper clippings addressed by the petitioner to the Hon'ble the Chief Justice was entertained by this Court as a taken-up writ petition and notices were issued to the respondents.

The letter and the paper clippings disclose that one Kandibothu Devi, mentally imbalanced woman was subjected to sexual assault in the hands of a Ward Boy of Government Hospital for Mental Care, Visakhapatnam; at least 12 women were languishing in the said hospital, even though they were declared as cured of their mental illness due to abandonment of their family members; continued failure of health policy to recognize medical care as a basic entitlement resulting mentally ill and to depend on family support and where there is none to look after them, they are left to wander in the streets and that escaping and vanishing of eleven patients admitted in the Institute of Mental Health, Erragadda on the night of 14.11.2005 and incidents of escaping which became 'cakewalk' in the Institute of Mental Health in Erragadda.

In response to the notices, the third respondent filed counter-affidavit on behalf of the third and fourth respondents stating that in the light of the directions issued by the Supreme Court in public interest litigations, Andhra Pradesh State Mental Health Authority was reconstituted vide G.O.Ms.No.26, dated 31.01.2002 and the authority meets 1-3 times in a year or more times keeping in view the exigencies

of work and the agenda items included pertaining to improving the conditions for mentally ill in the whole State. On coming to know that 11 patients of Court Admission Ward were escaped from Erragadda Mental Hospital by breaching the toilet ward of the hospital with IV Fluid Stand on 14.11.2005, the Duty Medical Officer informed the same to the Superintendent, who reached the hospital immediately, inspected the ward and arranged for shifting of patients to another safe custodial area and also additional ward boys for close monitoring and an extra Watchman. The Station House Officer, Sanjeeva Reddy Nagar Police Station was informed of the incident by the call duty RMO and was given the details of six patients, who could not be traced. After conducting preliminary enquiry, regular enquiry has been ordered against the staff, who are responsible for such malady. Following actions were already taken to avoid such incidents in future.

1. Strengthening of compound wall around the hospital by raising the height of wall with fencing over it. Administrative sanction for the above work have already been obtained from the Chairman, Hospital Devleopment Society and District Collector, Hyderabad District (copy enclosed). A letter has already been addressed to the Director of Medical Education, Andhra Pradesh, Hyderabad to sanction and release the amount required for construction of Compound Wall at the earliest considering the case as special case. Funds will be received in a short time.
2. Making arrangements to discharge of patients and handover to relatives by requesting the legal services authority to arrange for discharge of the cured patients who were admitted through courts.
3. To initiate construction of 150 bedded ward for Criminal and Court Ward patients with the funds allotted by the Government of India. It has been discussed with the Principal Secretary to Government, HM & FW Department, Government of Andhra Pradesh, and letters submitted.

It is also stated that the essential medicines required for the mentally ill have been incorporated in the Essential Drug List vide G.O.Ms.No.235, HM & FW (M2) Department, dated 15.06.2002 and several representations were made to the Director of Medical Education, Government of Andhra Pradesh, Hyderabad to permit the hospital to purchase medicines as and when there is no supply from the Central Drug Store.

The Sub-Inspector of Police, III Town Police Station, Visakhapatnam has filed affidavit stating that the investigation and the preliminary medical report disclose that no symptoms of rape were proved and however, necessary material was sent to the Chemical Examiner, Regional Forensic Science Laboratory, Visakhapatnam on 06.10.2005 and the report is awaited.

Since the State Government has not responded to the rule nisi, by order, dated 05.11.2007, we directed the Secretary to Government of Andhra Pradesh, Medical and Health Department to appear in person and explain the steps taken for safety of women patients, if he fails to file counter-affidavit disclosing the steps taken after the incidents, which took place at Visakhapatnam and also at Erragadda Hospital. In response to the same, the Deputy Secretary, Health Medical and Family Welfare Department filed counter-affidavit on behalf of the fourth respondent disclosing the following steps taken:

As regards the steps taken for the safety of the patients, the following action was taken in respect of Government Hospital for Mental Care, Visakhapatnam to avoid such incidents in future:

1. Strong compound wall is constructed around the entire hospital.
2. Private Security guards are arranged at vulnerable areas.
3. Round the clock female security guard is provided at Female Ward.

4. Power inverters are arranged in Female Ward for providing immediate illumination during power cuts.
5. On referral to other Super Speciality hospitals female patients are escorted and helped by female staff of this hospital.
6. The security and other facilities are being reviewed every day by the C.S. R.M.O. of this hospital.
7. No untoward incident reported after occupation of the new buildings.

As regards the steps taken for safety of the patients, the following action was taken in respect of the Institute of Mental Health, Hyderabad to avoid such incidents in future:

1. Constructed a 7 feet high stone wall around the hospital by raising the height of wall with fencing over it from the funds available under Hospital Development society.
2. With the help of the A.P. State Legal Services Authorities most of the cured patients admitted through courts were discharged. Patients whose address and relatives could not be traced were adopted to rehabilitation homes under the guidance of A.P. State Legal Services Authority.
3. The construction of 150 bedded ward for Criminal and Court Ward patients with the funds allotted by the Government of India has already started.

Having regard to the safety measures taken as detailed in the above counter-affidavits, no further cause survives in the writ petition.

The writ petition is accordingly closed. No costs.

A.GOPAL REDDY, J

30th NOVEMBER, 2007

P.SWAROOP REDDY, J

kvni